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## "9/11 Commission Recommendations: Balancing Civil Liberties and Security"

Statement of Rep. Christopher Shays  
June 6, 2006

*The Final Report of the National Commission on Terrorist Attacks Upon the United States* gave us the first comprehensive and objective analysis of what went so tragically wrong that day almost five years ago. The Commission unanimously called for a reevaluation of the fundamentals of defending the homeland.

The 9/11 Commission, as it is commonly called, provided the nation with 41 recommendations addressing issues such as homeland security and emergency response, intelligence and congressional reform, and foreign policy and nonproliferation.

Seventeen months after their Report was issued Governor Kean and former Representative Hamilton asked, "Are we safe?"

Their answer, "We are safer, but we are not safe enough."

Today we are safer for two reasons: We are safer because the men and women of our armed forces and intelligence agencies and all those who serve in our foreign affairs posts are taking the fight to the terrorists. We are also safer because Congress has provided new and stronger authority to the Executive branch to protect us at home.

For example, the Director of National Intelligence was created to coordinate efforts of the intelligence community. And a National Counterterrorism Center was established to integrate and analyze all intelligence pertaining to terrorism and counterterrorism.

However, when the Federal government takes on a stronger and more proactive role to protect its citizens the issue of civil liberties has the potential to become a casualty.

The authors of the 9/11 Commission Report foresaw such a possibility, recognized its dangers, and sought to guard against it by including civil liberties protections through the establishment of a civil liberties board.

Congress followed the advice of the 9/11 Commission, seeking to balance the fine line between civil liberties and security. When the Intelligence Reform and Terrorism Prevention Act of 2004 strengthened the security of our nation, it also established the White House Privacy and Civil Liberties Oversight Board.

Unfortunately, the authority of the Privacy and Civil Liberties Oversight Board will not be as effective as originally proposed because the legislation which created the Board does not provide it with subpoena power, and Board investigations can be vetoed by the US Attorney General.

The Board needs strong powers to engage in effective oversight. The power to subpoena records and witnesses from outside the government is as crucial as its independence.

Last month Congresswoman Carolyn Maloney (NY-14) and I introduced H.R. 5017, Ensuring Implementation of the 9/11 Commission Report Act. The legislation would require Executive branch agencies to certify progress made implementing and enacting 9/11 Commission recommendations.

Included in the legislation is language that will strengthen the White House Privacy and Civil Liberties Oversight Board providing it with subpoena power and greater independence.

Issues of the past year have highlighted the value of the 9/11 Commission's foresight, and also the importance of creating strong legislation that will balance security and civil liberties.

We must protect our civil liberties, because if we do not the terrorists will have won. At the same time we must protect our citizens. We owe nothing less to the victims of 9/11, the families of the fallen, and the citizens of the United States of America.

We thank all the witnesses for taking the time to appear before us today, including Governor Kean and Congressman Hamilton, and we want to especially thank the 9/11 families who continue to ask the difficult question, Are we safe enough?